

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Fort Lauderdale Division

CARMEN BLANCO,

CASE NO: CIV-ZLOCH

Plaintiff,
vs.

MICHAEL W. MOORE, Secretary of the
FLORIDA DEPARTMENT OF CORRECTIONS,
in his Official Capacity, and
FLORIDA DEPARTMENT OF CORRECTIONS

00-6006

Defendants.

C O M P L A I N T

Plaintiff, CARMEN BLANCO, (hereinafter referred to as "BLANCO"), by and through her undersigned attorneys, files this, her Complaint, against Defendants, MICHAEL W. MOORE, Secretary of FLORIDA DEPARTMENT OF CORRECTIONS and FLORIDA DEPARTMENT OF CORRECTIONS, (hereafter collectively referred to as "DEPARTMENT OF CORRECTIONS"), and states as follows:

1. Plaintiff, BLANCO, seeks injunctive relief and monetary damages to remedy discrimination on the basis of age, race and national origin in the terms, conditions and privileges of employment and to redress the deprivation of rights secured to Plaintiff by the Civil Rights Act of 1964, 42 U.S.C. §2000e *et. seq.*, ("Title VII"), as amended by the Civil Rights Act of 1991, and the Florida Civil Rights Act of 1992, Chapter 760, Florida Statutes.

2. The jurisdiction of the Court over this controversy is based upon the following:

a. The Court's jurisdiction conferred by 28 U.S.C. §§1331 and 1333 (a)(4) conferring original jurisdiction upon this Court of any civil action to recover damages or to secure equitable relief pursuant to any act of Congress providing for the protection of Civil Rights;

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- b. Title VII, 42 U.S.C. §2000e, *et. seq.*;
 - c. 29 U.S.C §621 *et. seq.*;
 - d. The Court's supplemental jurisdiction conferred by 28 U.S. C. §1367(a) to redress the tortuous and unlawful conduct described herein.
3. The venue of this Court over this controversy is based upon the following:
- a. The unlawful employment practices alleged below occurred and/or were committed within the State of Florida, within Broward County. Accordingly, venue lies in the Fort Lauderdale Division of the United States District Court for the Southern District of Florida pursuant to 28 U.S.C. §1391(b); and
 - b. Plaintiff avers that Defendants were doing and continue to do business in this judicial district within the meaning of 28 U.S.C. §1391(c). Accordingly, venue lies in this judicial district pursuant to 28 U.S.C. §1391(c).
4. At all times material hereto, Plaintiff, BLANCO, was and continues to be a citizen of the United States, and a resident of Broward County, Florida. At all times material hereto, Plaintiff, BLANCO, was and continues to be woman over the age of forty (40) of Puerto Rican descent.
5. At all times material hereto, Plaintiff, BLANCO, was and continues to be an employee or former employee of Defendants, DEPARTMENT OF CORRECTIONS.
6. At all times material hereto, Defendants, DEPARTMENT OF CORRECTIONS, were and continue to be an "employer" within the meaning of Title VII and the Florida Civil Rights Act of 1992, and is located in Broward County, Florida.
7. At all times material hereto, Defendant, MICHAEL W. MOORE, was and continues to be the Secretary of Florida Department of Corrections.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

8. Plaintiff, BLANCO, has fulfilled all conditions precedent to the institution of this action by timely filing a written Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC"), and the Florida Commission on Human Relations ("FCHR").

9. Plaintiff, BLANCO, filed this action within ninety (90) days of her receipt of the EEOC's Notice of Right To Sue and subsequent to one-hundred and eighty (180) days of her filing a Charge of Discrimination with the FCHR.

STATEMENT OF FACTS

10. On March 12, 1992, Plaintiff, BLANCO, was hircd by Defendants, FLORIDA DEPARTMENT OF CORRECTIONS as a Word Processor.

11. At all times material hereto, Plaintiff was fully qualified for the position of Word Processor, and performed her job duties with distinction.

12. During Plaintiff's employ, BLANCO was subjected to a pattern of intentional discrimination by her supervisors because of her age and national origin.

13. During the six years of Plaintiff's employment with Defendants, BLANCO was never promoted. Although BLANCO applied for several promotions and requested training which was available for other similarly situated employees, Plaintiff was never promoted and never received the requested training. Instead, other less qualified individuals were promoted and given training opportunities, all of whom were younger than Plaintiff and were not of Puerto Rican descent.

14. In fact, when Plaintiff first applied for a promotion, her supervisor informed her that she was "wasting time" and that she would never be promoted because of her national origin.

15. Plaintiff continued to apply for promotions and each time her application was rejected. During Plaintiff's employment, she requested to be promoted at least eleven (11) times, and each time her request was denied. Meanwhile, employees who were hired after Plaintiff and

who were less qualified than Plaintiff routinely received promotions and/or additional training opportunities.

16. At all times material hereto, Plaintiff was fully qualified for each position she applied for. Additionally, during Plaintiff's tenure with Defendants, she consistently received favorable reviews from her supervisors.

17. Although Plaintiff has made several complaints regarding the ongoing discrimination. Defendants have not taken steps to remedy the situation. On or about June 23rd, 1998 Plaintiff informed Defendants that she would not return to work until an investigation of the discrimination of her was investigated and corrected. However, Defendants still refused to investigate or otherwise correct the discrimination of Plaintiff based on her age and national origin.

18. Defendants' acts and omissions set forth in this Complaint constitute conduct on the part of the Defendants that was willful, wanton, malicious and reckless, demonstrating a knowing and/or reckless disregard for the rights of Plaintiff.

19. Further, Defendants' acts and omissions set forth in this Complaint, constitute conduct on the part of the Defendants' demonstrating a malicious and/or reckless indifference to the federally protected rights of Plaintiff so as to entitle Plaintiff to receive an award of punitive damages to punish Defendants and to deter Defendants and its agents from such conduct in the future.

20. Plaintiff has retained the undersigned law firm to represent her in this litigation, and has agreed to pay the firm a reasonable fee for it's services.

COUNT I: VIOLATION OF TITLE VII

21. Plaintiff realleges and reavers paragraphs 1 through 20 of this Complaint as if fully set forth herein.

22. Defendants have discriminated against Plaintiff in the terms and conditions of her employment because of her national origin.

23. The unlawful discriminatory pattern, practice, usage and custom by Defendants, and its agents and employees, as set forth above, violates Title VII of the Civil Rights Act of 1964, U.S.C. §2000e, as amended by the Civil Rights Act of 1991, Pub. L. No.102-166, 105 Stat.1071 (1991).

24. As a direct and proximate result of Defendants unlawful and discriminatory employment policies and practices. Plaintiff has suffered damages and will continue to suffer irreparable injury and damages in the future, including, but not limited to:

- a. Loss of past and future income;
- b. Stress, anxiety and emotional distress;
- c. Significant past and future pain and suffering; and
- d. Other financial losses.

25. Plaintiff is entitled to an award of reasonable attorney's fees, expert fees, costs and expenses related to the litigation pursuant to §706 (k) of Title VII, 42 U.S.C. §2000e 5(k), as amended by Section 113 of the Civil Rights Act of 1991.

WHEREFORE, Plaintiff requests that this Court enter judgment against Defendants and:

- a. Permanently enjoin the Defendants, its agents, employees, and those acting in concert with the Defendants from continuing to violate the rights of Plaintiff.
- b. Award Plaintiff compensatory, consequential and punitive damages.
- c. Award Plaintiff costs including but not limited to reasonable attorneys fees, and any such further relief as this court deems just, proper, and equitable.

COUNT II: VIOLATION OF ADEA

26. Plaintiff realleges and reavers Paragraphs 1 through 20 of this Complaint as if

fully set forth herein.

27. Defendants have discriminated against Plaintiff in the terms and conditions of her employment because of her age.

28. The unlawful discriminatory pattern, practice, usage and custom by Defendants, and its agents and employees, as set forth above, violates The Age Discrimination in Employment Act of 1967, 29 U.S.C. §623, *et. seq.*

29. As a direct and proximate result of Defendants' unlawful and discriminatory employment policies and practices, Plaintiff has suffered damages and will continue to suffer irreparable injury and damages in the future, including, but not limited to:

- a. Loss of past and future income;
- b. Stress, anxiety and emotional distress;
- c. Significant past and future pain and suffering; and
- d. Other financial losses.

30. Plaintiff is entitled to an award of reasonable attorney's fees, expert fees, costs and expenses related to the litigation pursuant to 29 U.S.C. §623, *et. seq.*

WHEREFORE, Plaintiff requests that this Court enter judgment against Defendants and:

- a. Permanently enjoin the Defendants, its agents, employees, and those acting in concert with the Defendants from continuing to violate the rights of Plaintiff.
- b. Award Plaintiff compensatory, consequential and punitive damages.
- c. Award Plaintiff costs including but not limited to reasonable attorneys fees, and any such further relief as this court deems just, proper, and equitable.

COUNT III: VIOLATION OF §760.10 Florida Statutes-National Origin Discrimination

31. Plaintiff realleges and reavers Paragraphs 1 through 20 of this Complaint as if fully set forth herein.

32. Defendants have discriminated against Plaintiff in the terms and conditions of her employment because of her national origin.

33. The unlawful discriminatory pattern, practice, usage, and custom by Defendants and its agents and employees, as set forth above, violates the Florida Civil Rights Act of 1992, Section 760.10, Florida Statutes.

34. As a direct and proximate result of Defendants' unlawful and discriminatory employment policies and practices, Plaintiff has suffered damages and will continue to suffer irreparable injury and damages in the future, including, but not limited to:

- a. Loss of past and future income;
- b. Stress, anxiety and emotional distress;
- c. Significant past and future pain and suffering; and
- d. Other financial losses.

35. Plaintiff is entitled to an award of reasonable attorney's fees, expert fees, costs and expenses related to this litigation pursuant to § 760.11(5), Florida Statutes.

WHEREFORE Plaintiff requests that this Court enter judgment against Defendants; and

- a. Declaring, pursuant to 28 U.S.C. §§2201 and 2202, that the acts and practices complained of herein are in violation of the Florida Civil Rights Act of 1992;
- b. Award Plaintiff compensatory damages, including, but not limited to, damages from mental anguish, loss of dignity, humiliation, and other intangible injuries.
- c. Prohibit Defendants from further unlawful employment practices;
- d. Award Plaintiff prejudgment and post-judgment interest, reasonable attorney's fees and costs; and
- e. Award Plaintiff any such other relief as justice requires, including punitive damages.

COUNT IV: VIOLATION OF §760.10 Florida Statutes-Age Discrimination

36. Plaintiff realleges and reavers Paragraphs 1 through 20 of this Complaint as if fully set forth herein.

37. Defendants have discriminated against Plaintiff in the terms and conditions of her employment because of her age.

38. The unlawful discriminatory pattern, practice, usage, and custom by Defendants and its agents and employees, as set forth above, violates the Florida Civil Rights Act of 1992, Section 760.10, Florida Statutes.

39. As a direct and proximate result of Defendants' unlawful and discriminatory employment policies and practices, Plaintiff has suffered damages and will continue to suffer irreparable injury and damages in the future, including, but not limited to:

- a. Loss of past and future income;
- b. Stress, anxiety and emotional distress;
- c. Significant past and future pain and suffering; and
- d. Other financial losses.

40. Plaintiff is entitled to an award of reasonable attorney's fees, expert fees, costs and expenses related to this litigation pursuant to § 760.11(5), Florida Statutes.

WHEREFORE Plaintiff requests that this Court enter judgment against Defendants; and

- a. Declaring, pursuant to 28 U.S.C. §§2201 and 2202, that the acts and practices complained of herein are in violation of the Florida Civil Rights Act of 1992;
- b. Award Plaintiff compensatory damages, including, but not limited to, damages from mental anguish, loss of dignity, humiliation, and other intangible injuries.
- c. Prohibit Defendants from further unlawful employment practices;

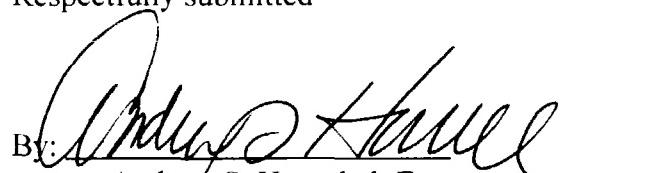
- d. Award Plaintiff prejudgment and post-judgment interest, reasonable attorney's fees and costs; and
- e. Award Plaintiff any such other relief as justice requires, including punitive damages.

Demand for Jury Trial

Plaintiff Demands trial by jury on all issues triable as of right.

Dated: January 3, 2000

Respectfully submitted

By: 
Andrew S. Henschel, Esq
FBN #852503

HENSCHEL AND HENSCHEL, P.A.
951 Northeast 167th Street, Suite 205
North Miami Beach, FL 33162
Telephone: (305)999-9398
Facsimile: (305)999-0181

CIVIL COVER SHEET 6006 CIV-ZLOCK

: JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers, as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I) PLAINTIFFS

Carmen Blayco

u) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Broward
(EXCEPT IN U.S. PLAINTIFF CASES)

A-NORTH-6006-ZLOCK/BSS

c) ATTORNEYS (FIRM NAME ADDRESS, AND TELEPHONE NUMBER) (305) 999-9348
Andrew S. Hirschel, Esq.
Hirschel & Hirschel, P.A., 951 NE 17th St
#205, North Miami Beach, FL 33132**DEFENDANTS**

Michael W. Moore, Secretary of the Florida Department of Corrections, in his official capacity and the Florida Department of Corrections.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Broward

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONCERNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

ATTORNEYS (IF KNOWN)
~~ANDREW S. HIRSCHEL~~
~~MELTZER~~CIRCLE COUNTY WHERE ACTION AROSE: DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE HIGHLANDS**BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(For Diversity Cases Only)

- | | PTF | DEF | PTF | DEF | |
|---|-------------------------------------|-------------------------------------|---|-------------------------------------|-------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Citizen of Another State | <input type="checkbox"/> | <input type="checkbox"/> | Incorporated and Principal Place of Business in Another State | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> | <input type="checkbox"/> | Foreign Nation | <input type="checkbox"/> | <input type="checkbox"/> |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify)

- 6 Multidistrict Litigation 7 Magistrate Judgment

Appeal to District Judge from Magistrate Judgment

NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

A CONTRACT	A TORTS	FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
110 Insurance	PERSONAL INJURY	PERSONAL INJURY	142 Appeal 28 USC 158	400 State Peapportionment
120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	410 Antitrust
130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury Product Liability	A PROPERTY RIGHTS	430 Banks and Banking
140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	450 Commerce/ICC Rates/etc
150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	460 Deportation
151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	470 Racketeer Influenced and Corrupt Organizations
152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	A LABOR	810 Selective Service
153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	850 Securities/Commodities/ Exchange
160 Stockholder Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 720 Labor Mgmt. Relations	875 Customer Challenge 12 USC 3410
190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 730 Labor Mgmt. Reporting & Disclosure Act	B SOCIAL SECURITY	891 Agricultural Acts
195 Contract Product Liability		<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 861 SRA 1391"	892 Economic Stabilization Act
A REAL PROPERTY	A CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 862 Black Lung 1925	893 Environmental Matters
210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 863 DWCA 12 USC 1405(b)	894 Energy Allocation Act
220 Foreclosure	<input checked="" type="checkbox"/> 442 Employment	HABEAS CORPUS:	<input type="checkbox"/> 864 SSID Title XVI	895 Freedom of Information Act
230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing, Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 865 RSI 1405(c)	900 Appeal of Fee Determination Under Equal Access to Justice
240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	FEDERAL TAX SUITS	950 Constitutionality of State Statutes
245 Tort Product Liability	<input type="checkbox"/> 446 Other Civil Rights	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	890 Other Statutory Actions
290 All Other Real Property		<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	A OR B
		<input type="checkbox"/> 555 Prison Condition		

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE
DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

CIVIL RIGHTS ACT of 1964, 42 U.S.C. § 2000 et seq., ch. 760 FIA. STANKS

LENGTH OF TRIAL
3 days estimated (for both sides to try entire case)**VII. REQUESTED IN COMPLAINT:**CHECK IF THIS IS A CLASS ACTION
 UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
 YES NO**VIII. RELATED CASE(S)** (See instructions).
IF ANY

JUDGE

DOCKET NUMBER

DATE

1/3/00

SIGNATURE OF ATTORNEY OF RECORD

Andrew P. Hirschel

FOR OFFICE USE ONLY

RECEIPT # 518211 AMOUNT 150.00 APPLYING IFF JUDGE MAG. JUDGE